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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CALIFORNIA INSTITUTE OF
TECHNOLOGY,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA,
INC.,

Defendants.

Case No. 5:22-MC-80318

E.D. Tex. Case No. 2:21-CV-0446-JRG

**DECLARATION OF JAMES M. DOWD
IN SUPPORT OF NON-PARTIES
BROADCOM INC. AND BROADCOM
CORP.'S OPPOSITION TO PLAINTIFF
CALIFORNIA INSTITUTE OF
TECHNOLOGY'S NOTICE AND
MOTION TO COMPEL SUBPOENA
COMPLIANCE**

Date: January 10, 2023
San Jose Courthouse, Courtroom 2, 5th Floor
Time: 10:00 AM PT

**DECLARATION OF JAMES M. DOWD
IN SUPPORT OF BROADCOM'S OPPOSITION TO
CALTECH'S MOTION TO COMPEL**

CASE No. 5:22-MC-80318

1 I, James M. Dowd, declare:

2 I am an attorney with the law firm of Wilmer Cutler Pickering Hale and Dorr LLP, and I
3 am one of the attorneys representing Broadcom Inc. and Broadcom Corp. (together, "Broadcom")
4 in the above-captioned matter. I have personal knowledge of the facts set forth herein, and if called
5 upon to testify, I could and would testify competently and completely to the statements made
6 herein.

7 1. On April 27, 2022, I met and conferred with counsel for California Institute of
8 Technology ("Caltech") regarding their subpoenas to produce documents to Broadcom. During
9 the meet and confer, I reviewed with Caltech's counsel Broadcom's objections to the requests
10 stated in Caltech's subpoena. Counsel for Caltech explained that the source code requested in the
11 subpoenas was Caltech's top priority and that production of source code would satisfy its subpoena
12 requests. In response, I explained that to the extent Caltech's theory of relevance is premised on
13 Caltech alleging infringement based upon Broadcom chips in Samsung's products, this theory is
14 barred by claim preclusion doctrine and its prohibition against claim splitting, and that as a result
15 Caltech's request were unduly burdensome and not reasonably calculated to lead to the discovery
16 of admissible evidence, and disproportionate to any legitimate need in Caltech's case.

17 2. On June 8 and August 9, 2022, counsel for Broadcom met and conferred again with
18 counsel for Caltech. I am informed and understand that during these meet and confers, counsel
19 only discussed Caltech's requests for source code and Broadcom's objections based on claim
20 preclusion and claim splitting.

21 3. Based upon reasonable investigation, I understand that Broadcom's [REDACTED] chip
22 uses a direct encoder.

23 4. Attached hereto as **EXHIBIT 1** is a true and correct copy of excerpts from
24 Caltech's Final Identification of Accused Products in *California Institute of Technology v.*
25 *Broadcom Ltd., et al.*, No. 2:16-cv-03714 (C.D. Cal.), dated September 15, 2017.

26 5. Attached hereto as **EXHIBIT 2** is a true and correct copy of excerpts from
27 Defendants' Second Supplemental Objections and Responses to Caltech's Third Set of

1 Interrogatories in *California Institute of Technology v. Broadcom Ltd., et al.*, No. 2:16-cv-03714
2 (C.D. Cal.), dated June 18, 2018

3 6. Attached hereto as **EXHIBIT 3** is a true and correct copy of excerpts from the trial
4 transcript, Dkt. 2251-2 in *California Institute of Technology v. Broadcom Ltd., et al.*, No. 2:16-cv-
5 03714 (C.D. Cal.), dated January 17, 2020, 1:00 P.M.

6 7. Attached hereto as **EXHIBIT 4** is a true and correct copy of excerpts from
7 Broadcom's Third Amended Objections and Responses to Caltech's Interrogatory No. 2 in
8 *California Institute of Technology v. Broadcom Ltd., et al.*, No. 2:16-cv-03714 (C.D. Cal.), dated
9 August 7, 2017.

10 8. Attached hereto as **EXHIBIT 5** is a true and correct copy of excerpts from
11 Attachment 2-D To Broadcom's Third Amended Objections and Responses to Caltech's
12 Interrogatory No. 2 in *California Institute of Technology v. Broadcom Ltd., et al.*, No. 2:16-cv-
13 03714 (C.D. Cal.).

14 9. Attached hereto as **EXHIBIT 6** is a true and correct copy of excerpts from
15 Caltech's First Set of Requests for Admission to Broadcom, dated September 13, 2017.

16 10. Attached hereto as **EXHIBIT 7** is a true and correct copy of excerpts from
17 Caltech's Second Set of Email Production Requests in *California Institute of Technology v.*
18 *Broadcom Ltd., et al.*, No. 2:16-cv-03714 (C.D. Cal.), dated August 14, 2017.

19 11. Attached hereto as **EXHIBIT 8** is a true and correct copy of excerpts from the
20 transcript of the deposition of [REDACTED] in *California Institute of Technology v. Broadcom*
21 *Ltd., et al.*, No. 2:16-cv-03714 (C.D. Cal.), dated July 14, 2017.

22 12. Attached hereto as **EXHIBIT 9** is a true and correct copy of excerpts from the
23 transcript of the deposition of [REDACTED] in *California Institute of Technology v. Broadcom*
24 *Ltd., et al.*, No. 2:16-cv-03714 (C.D. Cal.), dated September 8, 2017.

25 13. Attached hereto as **EXHIBIT 10** is a true and correct copy of an email chain
26 between Jim Dowd and Daniel Shih, dated April 2022.

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 19th day of December, 2022, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

By: /s/ James M. Dowd
James M. Dowd